

16.33 hrs.

**UNTOUCHABILITY (OFFENCES)
AMENDMENT AND MISCELLANEOUS
PROVISION BILL**

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS,
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS AND
DEPARTMENT OF PARLIAMENTARY
AFFAIRS (SHRI OM MEHTA):
I beg to move:*

"That the Bill to amend the Untouchability (Offences) Act, 1955 and further to amend the Representation of the People Act, 1951, as reported by the Joint Committee, be taken into consideration."

The Untouchability (Offences) Act, 1955, has been in force for about 20 years. There has been criticism that the Act has not made as great an impact on the eradication of untouchability as could be desired. The matter was gone into by a Committee under the chairmanship of Shri Elayaperumal. On the basis of the recommendations of that Committee, an amending Bill was brought before this House in April, 1972.

The Bill, as originally introduced, provided for higher punishments for untouchability offences than that prescribed under the existing Act. It was also provided that offences should be made non-compoundable, that persons guilty of untouchability offences should be disqualified from contesting elections to the Central and State Legislatures. The scope of the Bill was also sought to be extended to privately owned temples which were in fact allowed to be used as places of public worship. Justification, whether on historical, philosophical or religious grounds, of the practice of untouchability was also sought to be made an offence.

The Bill was referred to a Joint Committee which has made a number of amendments enlarging the scope of the Bill with a view to making its provisions more effective. The Joint Committee has suggested the imposition of collective fines on the inhabitants of an area if they are concerned in, or have abetted, the commission of untouchability offences, or are harbouring persons who have committed such offences. Victims of the offences or innocent persons may, however, be exempted from the payment of such collective fines.

As quick disposal of cases under the Act would have a salutary effect, the Joint Committee has suggested that untouchability offences which involved a term of imprisonment not exceeding three months should be tried summarily. Acts of reprisal or revenge against the person or property of anyone who exercises his rights arising out of the abolition of untouchability is being made punishable. Similarly, the Bill provides that it will be an offence to compel any person out of untouchability to do scavenging, sweeping, removing of carcasses, flaying of animals, removal of the umbilical cord or other jobs of a similar nature.

The Joint Committee has also suggested a special provision to the effect that the Central and State Governments should undertake appropriate measures to ensure that the rights flowing from the abolition of untouchability are availed of by the persons concerned. Such measures may include the provision of legal aid, appointment of special officers for initiation, supervision etc. of prosecutions under the Act, constitution of special courts, setting up of committees and the carrying out of periodical surveys. The Central Government is also to lay each year before Parliament a report on the measures undertaken by itself and

*Moved with the recommendation of the President.

[Shri Om Mehta]

the State Governments in pursuance of these provisions.

All these suggestions of the Joint Committee are commendable and would lead to a better enforcement of the provisions of the Act.

The Joint Committee has suggested that negligence in the investigation of untouchability offences and in giving effect to orders relating to reservation of posts for Scheduled Castes should be deemed to be abettors. So far as reservation in services is concerned, omission or failure to give effect to the reservation orders cannot be taken to amount to the practice of untouchability or the enforcement of any disability arising out of untouchability. There will also be serious practical difficulties in giving effect to such a provision. Again, mere negligence cannot be said to be an Act of abetment in law in the absence of a criminal intention on the part of a doer. Negligence without any *mens rea* may not amount to abetment for purposes of criminal law. Care must also be taken to ensure that police officers are not exposed to frivolous or vexatious criminal proceedings. We, therefore, propose to accept the Joint Committee's recommendation to the extent that only wilful negligence on the part of officers investigating untouchability offences will be deemed to be abetment and that prosecution in such cases should be launched only after obtaining the prior permission of Government.

Untouchability is a great blot on our civilization and culture. The provisions in the Bill will help in curbing this evil to a very great extent. The important thing is to ensure proper enforcement. In August, 1973 the Prime Minister wrote to all the Chief Ministers to set up Cells under their personal supervision to look into the grievances of Scheduled Castes, Scheduled Tribes and other minorities. Such

Cells have been set up in a number of States. We are also considering what further steps will be necessary to eradicate this evil and how the existing machinery should be strengthened with a view to better implementation of the provisions of the Act. Mere law, however, will not end this evil. It requires strenuous efforts on the part of every citizen. Voluntary organisations and Members of Parliament and State Legislatures can do much to bring about the change of heart which is so essential in eradicating this evil.

So, I commend this Bill for the consideration of the House.

MR CHAIRMAN: Motion moved:

"That the Bill to amend the Untouchability (Offences) Act, 1955 and further to amend the Representation of the People Act, 1951, as reported by the Joint Committee, be taken into consideration."

*SHRI KRISHNA CHANDRA HALDER (Ausgram): Mr Chairman, Sir, the Untouchability (Offences) Amendment and Miscellaneous Provision Bill, 1972 which has been brought forth to amend the Untouchability (Offences) Act, 1955 is only a half hearted step. It is not a well thought bill. You are aware, Sir, that even after 27 years of independence the Scheduled Castes and Scheduled Tribes and the Harijans have not yet been able to be free from untouchability. In fact they are even today deprived of human rights. Our Constitution provides for equal rights and human rights but about 20 per cent of our population belonging to the Scheduled Castes, Scheduled Tribes and other depressed classes are totally deprived of this Constitutional rights. All these rights are actually denied to them. Even this amendment Bill fails to give equal social rights to exploited people belonging to the the multitude of downtrodden and Scheduled Castes and Scheduled

*The original speech was delivered in Bengali.

Tribes. This large number of people belonging to the so called low castes are denied even basic citizenship rights as available to other classes of people. Therefore I say that this Bill has been brought forth in a half-hearted manner. The parent Act of 1955 and the majority report of the Joint Committee have failed to properly define the term "Untouchability". The hon. Minister Shri Om Mehta also did not properly define this term. "Untouchability" in his speech while introducing the Bill. The actual concept of this term has not been properly defined anywhere. Unless this term "Untouchability" is properly defined, it is not possible to award punishment for offences under this Act. I hope that the hon. Minister will place before this House the actual definition and concept of the term "Untouchability" in his reply to this debate. It is true that these people are being exploited and oppressed as a result of existing traditions in this country which go back to over thousand years. Nonetheless, it is a matter of great shame for this country. The people who are being oppressed and exploited are really the people who are producing the wealth for our country. They are the share croppers, the landless agricultural labour, the petty agriculturists who are producing food for our country and feeding the entire nation. They are the hard working people, they are the labouring people who are producing wealth for the country with the sweat of their brow but they are deprived of the social rights, the human rights and even democratic rights. The Congress Ministers and the Prime Minister proclaim before the world that our country is the biggest democracy in the world. But actually a huge mass of our population are deprived of equal rights, social rights and democratic rights. When all these hard working people are deprived of such rights then I think that they have no right to claim that India is the biggest democracy in the world.

This is a matter of great shame for us. The oppressed and exploited people not only belong to the agricultural sector in rural areas but they are also keeping the wheels of our industries running and the wheels of our railways moving. The people who perform all such work without which the factories cannot work and the Railways cannot run, e.g. the gangmen etc. mostly belong to the Scheduled Castes and Scheduled Tribes. Most of the labour force in the jute mills, the textile mills, the engineering industries etc. belong to the Scheduled Castes and Scheduled Tribes. In Delhi also which is the capital of India, the construction labour who are constructing huge sky scrapers and multi-storeyed buildings and helping to keep the city clean mostly belong to the Scheduled Castes, Scheduled Tribes and other backward classes. But all human rights are denied to them.

Our society which is founded on feudalism and capitalism has created such an atmosphere of terror that the poor harijans do not dare even to lodge complaints with the police or other competent authorities when oppression and atrocities are committed upon them. When their wives or young daughters are molested and raped and even when some of them are murdered, they do not dare to go to the police. Such is the atmosphere prevailing in our demonic society. These people are often the victims of injustice and atrocities but hardly a small fraction of them dare to lodge complaints. The feudal landlords and the owners of mills and construction companies terrorise them and the Government has failed to give protection to them whereby they could lodge complaints without fear. It is of primary importance to remove this atmosphere of awe and terror so that these poor oppressed people can fearlessly complain against the atrocities committed on them. A negligible percentage who dare

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complain to the authorities, do not get justice. Their complaints are not properly registered or the culprits punished. This way even the meagre legal protection is denied to them. Sometimes when their complaints are reluctantly registered, a nominal enquiry is held and the offenders in most cases are not apprehended. Nothing can be more shameful and sorrowful.

The report of the Commissioner for Scheduled Castes and Scheduled Tribes prove that even after 27 years of independence the problem of untouchability has not been solved to any significant extent. The impact on our society in this regard has been nil. There has been no progress towards eradication of untouchability. The Government should take appropriate steps for this. In Punjab it has been seen that between 1969 and June 1972, fifteen cases were filed under the Untouchability Offences Act. But only in two cases the offenders were convicted. Therefore I am afraid that the way in which the Government is proceeding in the matter and the way in which the various legal agencies are functioning it is not proving at all helpful to the people of Scheduled Castes, Scheduled Tribes, Harijans etc. The great leader of our freedom struggle, Mahatma Gandhi also struggled throughout his life, with great sincerity, for the emancipation of these down-trodden people known as Harijans. He devoted his life to see that untouchability was eradicated and these poor classes of people got social rights and social justice. Side by side his political struggle, he carried on this struggle also. He tried to see that the Harijans were allowed entry in the temples and places of worship along with the caste Hindus and that they were allowed entry in hotels, restaurants etc. His party is the Congress is in power today. They professed to follow the ideals of Mahatma Gandhi but it is regrettable that even in temples managed by the Government

the practice of untouchability is prevalent. The Congress Government has failed to give equal rights to these low class people so far as entry into temples managed by the Government itself. I will like the hon. Minister to explain this situation. You are aware, Sir, how atrocities are being openly perpetrated on the harijans and the Scheduled Caste people in the States of U.P., Bihar, Andhra Pradesh, Tamilnadu, Karnataka etc. In Banda district alone we have seen what sort of atrocities have been committed on the harijans. Even their women folk have not been spared. The harijans women have been molested and exploited. I do not want to go in the detail of these cases as they have been brought to the notice of this House many times. A few days ago the incident was discussed in this House where over hundred harijans were killed and entire harijan village was burnt to ashes. I will draw the attention of the hon. Minister to an incident in West Bengal. It is good that Shri Mohsin is also present in the House. I will like the Government to inquire about this incident from the West Bengal Government and let this House know the details thereof before the current session of Lok Sabha adjourns. The incident took place on the 9th April, 1975 on this date in Putunda village of Burdwan district in West Bengal. Some people belonging to the higher castes forcibly carried away four harijans with them. These poor harijans were confined in a room where they were beaten mercilessly. Many other atrocities were committed on them. As a result of merciless beating, two harijans, namely, Raghu aged 45 and Shukulal aged 30 died. The other two persons, namely, Muncsi Mandal and Manatha Karmakar were seriously injured and they had to be hospitalised. The police did not take any steps to provide protection to these people in spite of receiving complaints. A few days later having come to know of this gruesome inci-

I myself phoned the Superintendent of Police, Burdwan. But he did not pay heed to my complaint seriously. I want the hon. Home Minister to find out why the Police did not provide protection to these Scheduled Castes people. Inquiries may be made from the West Bengal Government urgently and this House may be informed about the details. It is surprising and regrettable that the real culprits are still at large and no efforts has been made to arrest them. I hope the hon. Home Minister will take up this matter in right earnest with the State Government immediately. Sir, it is a matter of great shame that even 27 years after independence this sort of atmosphere prevails in the country wherein Scheduled Castes and Scheduled Tribes people are the victim of indescribable atrocities, their women folk are molested, raped and exploited in many other ways, they are murdered and the culprits are not apprehended and punished yet all the time the Government keep boasting about the progress made by this country, socialism democracy and what not.

Some time back the General Secretary of the CPI(M) Shri P. Sundaraya had sent a memorandum to the Prime Minister wherein he had listed hundreds of cases of atrocities committed against the harijans and tribals in Andhra Pradesh by the big landlords and the police it narrated the brutal actions by the police against harijans. But inspite of that no action has been taken to afford protection to these people on the other hand the incidents of such atrocities have actually increased. The Scheduled Castes and Scheduled Tribes people are the victims of two types of atrocities and injustice. Firstly they are victims of injustice by the society, secondly they are also victims of political injustice. These people are mostly poor agricultural labourers and share croppers and since they are uniting and agitating

against the feudal landlords for their due rights, atrocities are being committed on them. To day they are raising a struggle against the feudal land system and this is not liked by the upper classes and moneyed classes. It will not be possible to give proper justice to them unless basic socio-economic structure is changed. Total and revolutionary land reforms has to be undertaken. They are being exploited by the feudalistic landlords under the present land system. The Scheduled Castes and Scheduled Tribes people are now raising their voice against this age old exploitation. They are demanding a share in the land and they are struggling for economic betterment. This can be given to them only through extensive land reforms. They must get ownership of the land they till. Atrocities are being committed on these people not only by the caste Hindus but since they are agitating for share in the land and they struggling for their rights and thus embarking upon a class struggle they are victims of atrocities by the moneyed classes who control the major portion of the land in the country today. We will not be able to do justice to these Scheduled Castes and Scheduled Tribes people by amending this Act. So long as there is not any revolutionary change in the socio-economic and political structure of the country, real justice cannot be given to them. Abolition of untouchability is possible only by abolishing the present socio-economic system which breeds exploitation of man by man. Therefore I demand that radical land reforms should be undertaken without any more delay.

The actual tillers must get the right to own land. All those who do not till the land themselves, who do not labour on the land, have no right to own land. Land is the key link in the emancipation of Scheduled Castes and Tribes. The ownership of land in the rural community enhances social

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status and economic independence and reduces the chance of social oppression. Unless the monopoly hold of the landlord both capitalist a landlord and feudal landlord on the agricultural land in the country is broken through radical land reforms and the surplus land is distributed to landless agricultural workers and poor peasants, social oppression and practice of untouchability cannot be effectively curbed. In the industries also the working classes belonging mostly to the Scheduled Castes and Tribes can not get social justice and equal rights unless all the monopolistic industries and the foreign companies and monopoly houses are nationalised. The atmosphere of exploitation of the poor workers in these big industries and monopoly houses must be checked so that the poor workers may be free from economic exploitation and are able to get social justice. All the penal provisions in this respect are on paper only and they are not being effectively implemented. Our Constitution must give them the right to work. Unless this is done and there is a marked improvement in their economic status they can never hope to get justice. The traditional caste structure has been modified by the super imposition of class exploitation. This must be curbed. (Interruptions) As I was saying Sir unless we provide economic independence to these down trodden poor people through constitutional provisions we cannot hope to change the situation significantly. The system of exploitation must be stopped. Our Constitution must be suitably amended to provide for 'right to work' to these exploited people. In conclusion I would like to say that these down trodden oppressed and much exploited masses of people belonging to the Scheduled Castes and Scheduled Tribes who have been the victims of age-old exploitation have now reached the end of their endurance. They will now unite together and embark upon a keen class struggle with a view to snatch their just rights

from the society if they fail to achieve their objective through democratic methods they will have to initiate struggle with other classes of people in the society to change the socio-economic structure. They will be forced to undertake a keener class struggle to end the present structure of society. As I have already said they have reached the end of their endurance and they are prepared to undertake keener class struggle to gain their objective and whatever oppression and atrocities they may have to face from the society or the Government, they are prepared to face that to achieve their goal. They will keep up the struggle against all odds till they are able to change the social structure and gain their just status and rights in a socialist society. With these warnings, Sir I conclude my speech.

17 05 hrs

PAPERS LAID ON THE TABLE—
Contd.

DETAILED DEMANDS FOR GRANTS (NAGALAND) FOR 1975-76

MR CHAIRMAN Before the next speaker speaks I will call Shrimati Sushila Rohatgi to lay on the Table the Detailed Demands for Grants of the Government of Nagaland for the year 1975-76

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI). With your permission, I beg to lay on the Table the Detailed Demands for Grants of the Government of Nagaland for the year 1975-76 [Placed in Library See No. LT- 9629/75].